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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,827	12/08/2003	Ramon Efrain Vasquez	7049552003	9280

7590 04/09/2007

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EXAMINER	
PRATT, HELEN F	
ART UNIT	PAPER NUMBER
1761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/728,827	VASQUEZ, RAMON EFRAIN	
	Examiner	Art Unit	
	Helen F. Pratt	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-8 and 10-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4-8, 10-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-8, 10-12, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheikh (5,213,838).

Sheikh discloses a method of making a seasoning solution containing water, potassium salt, acid, magnesium salt and calcium salt by mixing saturated hydroxide solution of potassium or calcium with citric acid to make citrates salts of potassium and calcium to which further inorganic acid is added to make a crystalline precipitate in the form of a slurry (col. 7, lines 1-26, col. 5, lines 25-35). Claim 17 differs from the reference in adding water to the reacted salts to make a slurry. However, nothing new is seen in making an aqueous solution of the salts instead of drying them, as in making soy sauce which is an aqueous salt containing mixture. Claim 17 further differs from the reference in the particular amounts of the ingredients and in the use of potassium chloride instead of any potassium salt and in the use of specifically tartaric acid. However, the reference to Sheikh discloses that the particular amounts are manipulated so that the combination of ingredients produce saline, sweet and sour taste elements like salt (col. 3, lines 35-45-51). Nothing is seen that such amounts as in the reference are not within the claimed amounts. As to the use of potassium chloride specifically

instead of potassium citrate and in the use of tartaric acid, these compounds are cited in the previously claimed Markush groupings of claims 2 and 3 and are seen to be equivalents, since they are part of a Markush grouping. In addition, nothing unexpected has been shown in the use of these compounds, as opposed to the other previously claimed and disclosed citrates. Water is found in the initial composition, which is removed by vacuum. Since it is known to make a solution of the claimed ingredients, it would have been obvious to use the claimed ingredients in a solution or to dry them. Therefore, it would have been obvious to make an aqueous mixture and composition as shown by Sheikh and to use particular amounts of ingredients.

The composition of claim 1 has been disclosed above and is obvious for those reasons. (Potassium citrate is disclosed in col. 8, lines 40-49 as in claim 2, and citric acid as in claim 3 (col. 8, lines 1-10), magnesium, and calcium chloride are disclosed in col. 8, lines 35-41 and col. 7, lines 55-64) – previous cancelled claims.

Nothing new is seen in using potassium citrate instead of calcium chloride as they are seen as equivalents as in cancelled claim 2. Therefore, it would have been obvious to use an equivalent of potassium citrate absent anything new or unexpected.

Nothing new is seen in the use of distilled or demineralized water as in claim 6 or that the composition is colorless, odorless, and has heightened salinity because purified water is commonly used as drinking water (col. 4, lines 30-33). The composition would be colorless, odorless as in claim 7 since salts are used which commonly mix with water leaving the water colorless, odorless. The addition of salts to water would have of course made the water taste salty. The composition would not need refrigeration as in

claim 8, since salts usually preclude the growth of bacteria. Therefore, it would have been obvious to make a composition using purified water and which is colorless and is stable, odorless and has heightened salinity.

Claim 10 further requires the use of additives such as essences, colorants and aromatizers and claim 11 that the solution can be used during cooking. However, nothing new is seen in flavoring and coloring a salty solution as in the use of soy sauce, which contains salts, and flavorings, which can be used before, during and after cooking. Therefore, it would have been obvious to use additives and to use the salty composition in cooking.

Claim 12 further requires the use of salt in amounts up to 20%. However, nothing new is seen in the use of sodium chloride in a low salt composition, which abound in the art. Therefore, it would have been obvious to use salt in zero amounts up to 20%.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the above reference as applied to the above claims, and further in view of Tanpei (58-081758).

Claim 13 further requires particular amounts of flavoring agents which are essences of vegetables, claim 14 thickening agents and preservatives and claim 15, bottles with a dropper and claim 16 the use of the solution as a dietary supplement. However, seasoned salts are well known as in garlic salt, onion salt, as are thickening agents and preservative and droppers or sprayers. Tanpei et al. disclose the use of a potassium chloride product, which contains citric acid, and contains an additional

flavoring ingredient such as monosodium glutamate, and salt and vitamins and minerals (abstract). Therefore, it would have been obvious to use known ingredients and known types of bottles and to use the composition as a dietary supplement since it includes known trace elements which are needed by the body and which are commonly used as supplements.

ARGUMENTS

Applicant's arguments filed 2-24-07 have been fully considered but they are not persuasive. While Sheikh does use citric acid, applicant is only claiming equivalents as shown by applicant's original claims, and no unexpected results have been shown using other salts or acids found in the cancelled Markush groupings. Applicants' specification also discloses that "all types of acids ... preferably, citric, tartaric and or fumaric acid"" can be used (page 8, lines 1-3). Also, "By the presentation of this Markush group, appellant has made the representation that for the purpose of the claimed invention, the elements of the group are equivalents. Having made this representation, appellants may not now argue that these two elements are not equivalents". In re Skoll, 187 USPQ 481 9CCPA 1975. Nothing has been shown by the way of comparative data that the use of tartaric acid would have produced new or unobvious results than when citric acid is used.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hp 4-4-07

H. Pratt

HELEN PRATT
PRIMARY EXAMINER